

Title 19**STORMWATER****Chapters:****19.01 Stormwater Management Services****Chapter 19.01****Stormwater Management Services****Sections:**

19.01.010	Purpose and necessity; Authorization.
19.01.020	Creation.
19.01.030	Authority.
19.01.040	Definitions.
19.01.050	Rates and charges.
19.01.060	Classifications of customers.
19.01.070	Billing and collection.
19.01.080	Payment; lien; penalty.
19.01.090	Customer classifications.
19.01.100	New construction.
19.01.110	Appeal.
19.01.120	Alternative method to collect stormwater charges.
19.01.130	Penalty.

19.01.010 Purpose and necessity; Authorization. The city council of the city of Eau Claire finds that the management of stormwater and other surface water discharges within and beyond the Chippewa River, the Eau Claire River and other bodies of water within the city is a matter that affects the health, safety and welfare of the city, its citizens and businesses and others in the surrounding area. Failure to effectively manage stormwater affects the sanitary sewer utility operations of the city by, among other things, increasing the likelihood of infiltration and inflow into the sanitary sewer system. Surface water runoff may cause erosion of lands, threaten residences and businesses with water damage, and create environmental damage to the rivers, streams and other bodies of water within and adjacent to the city. A system for the collection and disposal of stormwater provides services to all properties within the city of Eau Claire and surrounding areas, including those properties not currently served by the system. The cost of operating and maintaining the city stormwater management system and financing necessary repairs, replacements, improvements and extensions thereof should, to the extent practicable, be allocated in relationship to the services received from the system. In order to protect the health, safety and welfare of the public, the city council hereby exercises its authority to establish a stormwater utility and establish the rates for stormwater management services. In promulgating the regulations contained in this chapter, the city is acting pursuant to authority granted by chapters 62 and 66 of the Wisconsin Statutes, including, but not limited to, sections 62.04, 62.11, 62.16(2), 62.18, 66.0621, 66.0809, 66.0811, 66.0813, 66.0821, and 66.0627. (Ord. 6212 §9, 2001; Ord. 5951 §1, 1999; Ord. 5670, 1996).

19.01.020 Creation. There is hereby established a stormwater utility in the city of Eau Claire. The operation of the stormwater utility shall be under the supervision of the city manager. (Ord. 5670, 1996).

19.01.030 Authority. The city, acting through the stormwater utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities, operations and activities, as are deemed by the city to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitation due to enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls, ponds, streets, roads, ditches and such other facilities as will support a stormwater management system. (Ord. 5670, 1996).

19.01.040 Definitions. In this chapter:

- A. "Charge" means the fee imposed under this chapter for the rendering of stormwater utility services by the city.
- B. "Equivalent runoff unit" or "ERU" is the basic unit by which a storm sewer charge is calculated under this chapter and is based upon the impervious area reasonably determined by the city.
- C. "Impervious area" means a surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rain water. The term includes, without limitation due to enumeration, all areas covered by structures, roof extensions, patios, porches, driveways, loading docks and sidewalks, and semi-impervious surfaces such as compacted gravel, all as measured on a horizontal plane.
- D. "Duplex" means a residential dwelling having two dwelling units.
- E. "Dwelling unit" means a room or group of rooms including cooking accommodations, occupied by one family, and in which not more than two persons, other than members of the family, are lodged or boarded for compensation at any one time.
- F. "Multifamily unit" means any residential property comprised of three or more dwelling units, including condominiums.
- G. "Nonresidential property" means a lot or parcel of land, with improvements such as a building, structure, grading or substantial landscaping, which is not residential property, excluding publicly-owned rights of way, airport runways, airport taxiways, recreational trails, and publicly-owned or privately-owned rail beds utilized for railroad transportation.
- H. "Residential property" means a lot or parcel of land developed exclusively for residential purposes, including single-family units and duplexes not exceeding one acre in area, and multifamily units. The term includes manufactured homes.
- I. "Single family unit" means any residential property, including manufactured homes, consisting of one dwelling unit.
- J. "Stormwater utility" means the utility established under this chapter for the purpose of managing stormwater and imposing charges for the recovery of costs connected with such stormwater management.
- K. "Undeveloped property" means property that is not developed by the addition of an improvement such as a building, structure, grading or substantial landscaping. A property shall be considered to be developed if:
 - 1. A certificate of occupancy has been issued for a building or structure on the property or, if no certificate of occupancy has been issued, upon substantial completion of construction or final inspection; or
 - 2. Construction of an improvement on the property is at least 50 per cent completed and such construction has ceased for a period of at least 3 months, whether consecutive or not. (Ord. 5878, 1998; Ord. 5670, 1996).

19.01.050 Rates and charges. A. The basis for computation of the charge for stormwater services to lots and parcels of land within the city is established under this section. The amount of charge to be imposed, the establishment of formulas for the calculation of charges, the creation of customer classifications for the imposition of charges, and changes in such charges, formulas and customer classifications may be made by resolution. All charges established pursuant to this chapter shall be fair and reasonable. A schedule of current charges shall be maintained and on file in the office of the city clerk.

B. Charges shall be imposed to recover all or a portion of the costs of the stormwater utility. Such charges may include the following components:

1. **Base charge.** A base charge may be imposed on all property in the city. The base charge is established in recognition of the fact that all properties in the city receive services from the stormwater management activities of the city and that all property contributes to some degree to the stormwater discharge that must be managed by the city. The base charge shall be assessed to collect the administrative costs of the stormwater utility and may include capital, operating and maintenance costs of the stormwater utility which are not recovered by other means. The base charge may be based on the size of a lot or parcel of land.

2. **Equivalent runoff unit charge (ERU).** An equivalent runoff unit charge may be imposed on all property that has an impervious area. The ERU charge shall be assessed based upon the impervious area as reasonably determined by the city. The ERU is established to be 2,400 square feet.* (Ord. 5670, 1996).

19.01.060 Classifications of customers. The council may establish classifications other than the customer classifications under section 19.01.090 as will be likely to provide a reasonable and fair distribution of the costs of the stormwater utility. (Ord. 5670, 1996).

19.01.070 Billing. A. Bills for stormwater utility charges shall be mailed to the recipient designated by the owner of the property to which the bill relates, provided that such mailing shall not relieve the owner of rental property from liability for the charges in the event payment is not made. The owner of any property which is occupied by tenants shall have the right to examine the appropriate records of the city to determine whether such rates and charges have been paid by such tenants, provided that such examination shall be made at the office at which the records are kept during normal business hours.

B. A late payment charge of 3 percent will be added to bills not paid within 20 days of issuance in accordance with the provisions of s. 14.20.020 of this code.

C. All stormwater service charges shall be taxed and collected and shall be a lien upon the property served in the same manner as water service charges are taxed and collected under the provisions of Wisconsin Statutes, section 66.0809, and the provisions of title 14 of this code. (Ord. 6212 §10, 2001; Ord. 5670, 1996).

19.01.080 Payment; lien; penalty. A. Stormwater utility charges shall not be payable in installments. Stormwater utility charges shall be payable upon receipt, subject to the provisions of this section. If a charge remains unpaid for a period of 20 days after the date of the utility bill, such charge shall become a lien on the property to which it relates as provided in ss. 66.076(7) and 66.069(1), Wis. Stats. Delinquent charges shall be automatically extended upon the next available tax roll as a delinquent tax against the property, and all proceedings relating to the collection, return and sale of property for delinquent real estate taxes shall apply to such charges. Charges remaining unpaid for a period of 20 days or more from the date of the utility bill shall be assessed a late payment charge.

B. All delinquent utility charges shall be subject to a penalty of 10 per cent, in addition to all other charges, penalties or interest, when the delinquent charge is extended upon the tax roll. (Ord. 5951 §2, 1999; Ord. 5670, 1996).

19.01.090 Customer classifications. A. For the purpose of imposing the charges imposed under this chapter, all lots and parcels of land in the city shall be classified into the following customer classifications:

1. Residential -- single family unit.
2. Residential -- duplex.
3. Residential -- multifamily.
4. Nonresidential.
5. Undeveloped.

* Ed. Note: The storm water ERU has been established at 3,000 sq. ft. by resolution no. 97-688 adopted Nov. 25, 1997.

- B. The ERU charges for the foregoing classifications shall be established as follows:
1. Residential -- single family unit: one ERU.
 2. Residential -- duplex: 0.5 ERU times each dwelling unit.
 3. Residential -- multifamily: 0.4 ERU times the number of dwelling units within the multifamily dwelling.
 4. Nonresidential -- one ERU times a factor obtained by dividing the total impervious area of the nonresidential property by the square footage equivalent for one ERU (2,400). Such impervious area shall be determined based on the best information reasonably available. The result shall be rounded down to the nearest five-tenths (0.5). The minimum charge for a nonresidential property shall be equal to the rate for five-tenths (0.5) of one ERU.
- C. Undeveloped property shall be charged based on a factor established by the city council resolution adopted under s. 19.01.050 A.
- D. All unoccupied lots and parcels of land shall be subject to stormwater utility charges. (Ord. 5670, 1996).

19.01.100 New construction. Except for single family units, a property owner shall be responsible for submitting a stormwater utility service application at the time a building permit is issued or a site plan review is conducted. The application shall be made on a form prescribed by the city and provided with each application for a building permit or application for site plan review. Failure to submit such stormwater utility service application or providing false information on such form shall be a violation of this chapter. (Ord. 5670, 1996).

19.01.110 Appeal. A. A stormwater utility charge may be appealed to the utility appeals board created under ch. 2.50 of the code of ordinances. An appeal can be undertaken by filing a written appeal with the city clerk prior to the due date of the charge or within 30 days of payment. The written appeal shall specify all grounds for challenge to the amount of the charge and shall state the amount of charge that the appellant considers to be appropriate. Failure to appeal within 30 days of payment shall deprive the utility appeals board of jurisdiction to hear the appeal.

B. In considering an appeal, the utility appeals board shall determine whether the stormwater utility charge is fair and reasonable and, in the event the appeal is granted, whether or not a refund is due the appellant and the amount of the refund. The utility appeals board shall conduct a formal or informal hearing and obtain sufficient facts upon which to make a determination. The decision of the utility appeals board shall be based upon the evidence presented to it. The utility appeals board shall notify the appellant in writing of its determination. (Ord. 5670, 1996).

19.01.120 Alternative method to collect stormwater charges. The city council hereby finds and determines that the stormwater utility charges established under this chapter reasonably reflect the services rendered to property and may be, and are hereby authorized to be levied and imposed on property as a special charge pursuant to s. 66.60(16), Wis. Stats., in addition to other provisions of law. The mailing of the bill for stormwater utility charges to a property owner shall serve as notice to the property owner that failure to pay the charges when due may result in the charges being imposed pursuant to the authority of s. 66.60(16), Wis. Stats. The city may provide notice each October of any unpaid charges to the stormwater utility and such charges, if not paid by November 15, may be placed on the tax roll in accordance with s. 66.60(15), Wis. Stats. The collection method provided in this section is in addition to the collection method provided for in s. 19.01.080. (Ord. 5951 §3, 1999; Ord. 5670, 1996).

19.01.130 Penalty. A person violating s. 19.01.100 shall, upon conviction, pay a forfeiture not to exceed \$500 for each offense, in addition to the costs of prosecution which are allowed by law. Each day during which a violation exists shall constitute a separate offense. (Ord. 5670, 1996).